

E-FILED on February 20, 2007

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Attorneys for Appellees/Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT  
 DISTRICT OF NEVADA**

In re:  
 USA COMMERCIAL MORTGAGE COMPANY,  
 Debtor.

Case Nos. BK-S-06-10725 LBR  
 Case Nos. BK-S-06-10726 LBR  
 Case Nos. BK-S-06-10727 LBR  
 Case Nos. BK-S-06-10728 LBR  
 Case Nos. BK-S-06-10729 LBR  
 Chapter 11

In re:  
 USA CAPITAL REALTY ADVISORS, LLC,  
 Debtor.

In re:  
 USA CAPITAL DIVERSIFIED TRUST DEED  
 FUND, LLC,  
 Debtor.

Jointly Administered Under  
 Case No. BK-S-06-10725 LBR

In re:  
 USA CAPITAL FIRST TRUST DEED FUND, LLC,  
 Debtor.

**BAP No. NV-07-1021**

In re:  
 USA SECURITIES, LLC,  
 Debtor.

**DEBTORS' RESPONSE TO  
 ATTORNEY INFORMATION  
 SHEET FILED WITH EX PARTE  
 MOTION FOR ORDER  
 SHORTENING TIME TO HEARING  
 OF LENDER PROTECTION  
 GROUP'S MOTION FOR STAY  
 PENDING APPEAL**

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC

Hearing: N/A  
 Hearing Time: N/A

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Reference is made to the ATTORNEY INFORMATION SHEET FOR EX PARTE MOTION FOR ORDER SHORTENING TIME TO HEAR APPELLANTS' MOTION FOR LIMITED STAY PENDING APPEAL [Docket No. 2851] and the EX PARTE MOTION FOR ORDER SHORTENING TIME TO HEAR APPELLANTS' MOTION FOR LIMITED STAY PENDING APPEAL [Docket No. 2849] filed on February 20, 2007 by Alan R. Smith, Esq. as counsel for the purported "Lenders Protection Group," Appellees USA Commercial Mortgage Company, USA Capital First Trust Deed Fund, LLC, USA Capital Diversified Trust Deed Fund, LLC, USA Capital Realty Advisors, LLC and USA Securities, LLC (collectively, "Debtors"), by and through their undersigned counsel, inform the Court that

a. Lenard E. Schwartzer, Esq., local counsel for the Debtors received an e-mail from Kevin Darby, Esq. of the law office of Alan Smith requesting consent to an order shortening time with regard to the Motion for Limited Stay pending Appeal by an e-mail dated February 20, 2007 and time-marked 4:20 p.m. A copy is attached hereto as Exhibit "1".

b. Approximately 30 minutes later, Lenard E. Schwartzer, Esq. responded with an e-mail on February 20, 2007 which was time-marked 5:05 p.m. stating "I would not agree to an order shortening time." A copy is attached as Exhibit "2".

c. Alan R. Smith e-filed an Attorney Information Sheet that indicated that the Debtors' counsel, Annette W. Jarvis, Esq., was "unavailable/no response".

Debtors would assert that the Attorney Information Sheet filed by Mr. Smith is, at least, misleading and, more likely, untruthful. It is misleading to suggest that Debtors' counsel was unavailable or non-responsive when a response was filed in less than 35 minutes. It would be untruthful if the Attorney Information Sheet was e-filed after 5:05 p.m.

Debtors assert that no order shortening time is needed and that it would be better procedure for the Motion for Limited Stay Pending Appeal to be fully briefed in the ordinary course of these proceedings. The debtors, and other parties in interest, should be given a full and fair opportunity to respond to the Motion for Limited Stay Pending Appeal

1 For the reasons stated, Debtors' counsel was not unavailable and not unresponsive.  
2 Debtors' counsel opposes an order shortening time with regard to the Motion for Limited Stay  
3 Pending Appeal. For the reasons stated, the Ex Parte Motion for Order Shortening Time to Hear  
4 Motion for Limited Stay Pending Appeal should be denied.

5 DATED this 20th day of February, 2007.

6  
7 /s/ Lenard E. Schwartzer

8 Lenard E. Schwartzer (NV Bar No. 0399)  
9 Jeanette E. McPherson (NV Bar No. 5423)  
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14 AND

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23 *Attorneys for Appellees*  
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Exhibit “1”

**Lenard Schwartz**

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**From:** Kevin Darby [darby@asmithlaw.com]  
**Sent:** Tuesday, February 20, 2007 4:20 PM  
**To:** ajarvis@rqn.com  
**Cc:** lschwartz@s-mlaw.com; jmcpherson@s-mlaw.com  
**Subject:** USA Commercial Mortgage

Annette-

We understand the sale to Compass closed. Congratulations!

Now that the sale is closed, we intend to proceed with a Motion For Stay Pending Appeal in the bankruptcy court.

We intend to seek an order shortening time on the Motion. The purpose of this email is to ascertain whether you will agree to an order shortening time.

Please let me know your position as soon as possible.

Respectfully,

**Kevin A. Darby, Esq.**  
Law Offices of Alan R. Smith  
505 Ridge Street  
Reno, Nevada 89501  
Telephone: (775) 786-4579  
Facsimile: (775) 786-3066

2/20/2007

Exhibit “2”

## Lenard Schwartz

---

**From:** Lenard Schwartz [lschwartz@s-mlaw.com]  
**Sent:** Tuesday, February 20, 2007 5:05 PM  
**To:** 'Kevin Darby'  
**Cc:** 'jmcpherson@s-mlaw.com'; 'Steven Strong'; 'Allison, Thomas'; 'Smith, Susan Marie'; 'ajarvis@rqn.com'  
**Subject:** RE: USA Commercial Mortgage

I would not agree to an order shortening time.  
Lenard Schwartz

---

**From:** Kevin Darby [mailto:darby@asmithlaw.com]  
**Sent:** Tuesday, February 20, 2007 4:20 PM  
**To:** ajarvis@rqn.com  
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